

**City of Taylorsville
Board of Adjustment
Minutes
June 21, 2005**

PRESENT:

BOARD OF ADJUSTMENT

Scott Lundberg, Chair
Bruce Holman
Ken Cook
Lynn Marsh
Steven E. Wilde

Excused: Donna Jackson

COMMUNITY DEVELOPMENT DEPARTMENT

Nick Norris, City Planner/Code Enforcement
Jean Gallegos, Administrative Assistant/Recorder

PUBLIC: Ricky Taylor, Steven Gars

WELCOME: **Chairman Lundberg** welcomed those present, explained the procedures to be followed this evening and opened the meeting at 6:30 p.m.

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| 1. 2B05 <u>Bill Taft, 5733 S. Gandalf Drive (3810 West)</u> - Request to Expand a Non-conforming Structure. |
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1.1 **Mr. Norris** oriented on the site plan, aerial map and images. The applicant is requesting to expand a legal, non-conforming structure by adding a small addition to the north side of the home. The addition would be approximately 280 square feet. The addition would have a front setback of 25 feet, which meets the minimum setback requirement in the R-1-8 zone, but is 5 feet closer to the street than the rest of the structure. The side setback is shown as 9 feet. [18:32:47](#)

1.1.1 The property is considered a legal non-conforming structure because it does not meet the current rear yard setback. Staff believes this is because the County ordinance that was in place when the home was constructed allowed for a 15 foot rear yard setback if there was a garage on the property. At some point after the home was constructed, the garage was converted to serve another function other than storing cars. It is unclear whether or not a building permit was obtained for such work.

1.1.2 When a property does not have a garage, the rear yard setback is 30 feet. The rationale for the length of the setback is that the rear yard is typically the only location where a garage can be legally constructed after a home is already erected.

1.1.3 An inspection of the property revealed an accessory structure in the rear yard that is either under construction or not finished. It is unclear whether the structure is large enough to require a permit or not but it was not shown on the site plan. The applicant should supply an updated site plan that shows all structures that are on the property, with accurate dimensions.

1.1.4 The property is approximately 0.18 acres (approximately 8,000 square feet). It is zoned R-1-8. The property does not have a garage but meets the minimum off-street parking requirements for a single family residential use, which is two parking stalls (at least 360 square feet).

1.1.5 The addition would be approximately 234 square feet. The addition would have a front setback of 25 feet, which meets the minimum setback requirement in the R-1-8 zone, but is 5 feet closer to the street than the rest of the structure. The side setback is shown as 9 feet. The minimum side yard setback is 8 feet. The rear yard setback is 22 feet and no portion of the addition would be closer than 22 feet from the rear property line.

1.2 Staff Findings of Fact:

1. Is the addition or enlargement in harmony with one or more to the provisions of this title?
 - Enlarging this structure does not adversely impact the intent of the setbacks created for properties in the R-1-8 zoning district. The reduced rear yard setback may prevent the applicant from erecting a detached garage in the rear yard. Furthermore, enlarging the structure limits the

access to the rear yard from the driveway, further decreasing the option of building a garage in that portion of the property.

2. Will the proposed change impose an unreasonable hardship on lands located in the vicinity of the non-conforming structure?

- The enlargement/addition would not make the structure any more noncompliant than it already is. While the side yard setback will be reduced to 9 feet, it is still above the minimum requirement of 8 feet. There may be an impact that results from an increase in storm drainage. This impact can be mitigated by installing rain gutters and directing the water away from the neighboring properties.
- The new structure would reduce the amount of off-street parking at the property. Staff has inspected the property and found that the current off-street parking is fully utilized and there are vehicles that are parked on the street. While parking on the street is not necessarily a violation of City ordinance, there are certain times when it is, for example during a snow storm. Also, the vehicles that are parked on the street may be violating certain parking ordinance (parking within 15 feet of a stop sign/intersection, parking within 5 feet of a driveway, etc.). While the property does technically meet the off-street parking requirements, it may place a burden on the neighbors by creating unsafe conditions due to vehicles parking on the street. The Board of Adjustment must determine if this impact is reason enough to deny the application.

1.3 **Staff Recommendations:** Based on the findings of facts, the information submitted by the applicant and the City Code, Staff recommends that the Board of Adjustment consider the following items when making a decision on this item:

1. Is the application in harmony with the intent of the zoning ordinance?
2. Does the reduction of current off-street parking create an unreasonable burden on the neighboring properties?

3. **If the Board of Adjustment decides to approve the application, the following should be considered as conditions:**

- a. That the addition complies with all other applicable ordinances.
- b. That the applicant submits an accurate site plan, including the accessory structure located in the rear yard.
- c. That the applicant obtains a building permit and abides by all requirements of the Building Department.
- d. That the unfinished structure in the rear yard be brought into compliance, including a building permit if it is over 200 square feet.
- e. That the applicant insures that all vehicles, including trailers, are parked legally at all times.
- f. That all exterior walls of the new addition be covered with a material that is similar to the siding of the existing house.

1.4 **APPLICANT ADDRESS:** Not present.

1.5 **SPEAKING:**

1. **Steven Gars** (lives in house directly north of this site) spoke in support of Mr. Taft's proposal. He said that Mr. Taft was interested in having the largest structure possible without negatively impacting his neighbors and Mr. Gars was okay with the size being proposed.
2. **Ricky Taylor** (lives diagonal to this property to the south). Mr. Taylor said that Mr. Taft keeps his yard immaculate and inasmuch as the present proposal has been scaled down from what was originally proposed, he was supportive.

1.6 **DISCUSSION:**

1. [18:38:29](#) **Mr. Wilde** asked about the type of foundation to be used and **Mr. Norris** said that the concrete pour will have to meet the building code as a habitable structure. [18:39:01](#) **Mr. Wilde's** concern was that the retaining wall appeared to be crumbling and might not provide enough support for this addition. [18:39:25](#) **Mr. Norris** commented that would be up to the building official to make that determination and they may require an engineer test on that wall to make sure it is safe. **Mr. Wilde** felt that should be made a condition for approval.
2. [18:40:14](#) **Mr. Marsh** asked if the foundation had any type of reinforcement in it and **Mr. Wilde**, who is an engineer by profession, stated that would be a requirement. [18:40:33](#) **Mr. Wilde's** concern was that there is an angle of repose of the soil and if the retaining wall is removed for whatever reason, then the soil that is supported by that wall could slough off and remove the support for the foundation. That is the potential problem. **Mr. Marsh** then asked about the type of material being recommended for the exterior of the home in regards to this new structure. **Mr. Norris** advised that staff just would like to see something similar, whether it be the wood siding that is on the front of the garage now or the brick, just something to tie it all together in the front. **Mr. Marsh** asked if there would be a problem with the fire code with three different materials there. [18:41:31](#) **Mr. Norris** said that it would have to be of such construction to meet all requirements under the fire code and the Building Department would assure that is done during their normal review of the permit.
3. **Mr. Cook** asked that the appropriate reference from the zoning ordinance be made available to Board members. **Mr. Norris** complied [18:42:18](#) by reading it aloud. Ordinance 13.02.020 is titled Purpose of Provisions. "This title is designed and enacted for the purpose of promoting the health, safety, morals, conveniences, order, prosperity and welfare of the present and future inhabitants of the City, including among other things the management of streets or roads, securing safety from fire and other dangers, providing adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base and securing economy in governmental expenditures [18:42:54](#) **Mr. Cook** asked how many families lived in the house and Mr. Norris said that all persons living in the home are related, including adult children. The family does a lot of motorcycle racing, including trailers to store equipment in.
4. [18:47:39](#) **Mr. Wilde** asked why the structure was to be built in the front and **Mr. Norris** did not know why, however, that it still meets required setbacks.

1.7 There being no others wishing to speak to this issue, the public hearing portion was closed and opened for Board of Adjustment deliberation/decision.

1.8 **DISCUSSION:**

1. [18:48:41](#) **Mr. Cook** was concerned that requiring brick all the way across the garage may be a financial strain on the owner, however, agreed that it would make it look very nice and was supportive of that suggestion.
2. [18:50:21](#) **Mr. Holman** commented that he had visited this site and spoken with Mr. Taft and was informed that he plans to put new siding up for the entire structure that is the same color as the rest of the house. **Mr. Holman** said that the new addition would be flush with the back of the house and that Mr. Taft has submitted a building permit and was willing to conform to whatever he needed to do to make this work.

1.9 **MOTION:** **Mr. Holman** - [18:51:07](#) I would propose that we approve the variance with two conditions: (1) That Mr. Taft submits an accurate site plan as proposed in Staff Recommendation "b", including the accessory structure located in the rear yard and (2) reference Staff Recommendation "f" that the exterior walls of the new addition be covered with a material that is similar to siding on the existing home – which is what he has already stated he would do. Therefore, I propose that we grant the variance with those conditions. **Chairman Lundberg** - Actually this is not a request for variance but rather a request to expand a non-conforming structure. **Mr. Holman** - Then I will restate the approval to be for an expansion of a non-conforming structure instead of a variance.

SECOND: **Mr. Cook**

DISCUSSION: Mr. Wilde - 18:52:32 I would like to amend the motion to also stipulate that the applicant obtain concurrence of the City Engineer that the retaining wall on the north side of the property will support the addition. Chairman Lundberg - Mr. Holman, do you agree to that amendment? Mr. Holman - Would that be part of the building permit process? 18:53:20 Mr. Norris - A lot of times that is up to the building official to determine. If he sees something that creates an element of concern, he has the authority to levy requirements to correct the situation before he signs off on a building permit. Whether it is a soils test or some sort of stamped engineer drawing saying that the wall is sufficient. The Board does have the authority to place that condition on approval if they wish to do so. Chairman Lundberg - Mr. Holman, then do you agree to that amendment? Mr. Holman - No. I will stay with my original motion. Chairman Lundberg - Then I will call for a vote.
VOTE: All Board Members voted in favor and motion carries unanimously.

MINUTES: Review/Approval of Minutes for Board of Adjustment Meeting held April 20, 2004.

MOTION: Mr. Cook moved for approval of the Minutes of April 20, 2004 as presented.
SECOND: Mr. Holman.
VOTE: All Board Members voted in favor and motion carries unanimously.

Mr. Norris said that because it was so long in between meetings being held, he suggested a training meeting be held in August to review policies and procedures if no items are received for review.

ADJOURNMENT: By motion of Mr. Holman and second by Mr. Cook, the meeting was adjourned at 7:00 p.m.

Respectfully submitted by:

Jean Gallegos, Administrative Assistant to the
Board of Adjustment

Approved in meeting held on August 16, 2005